ACT No. 279

HOUSE BILL NO. 929

BY REPRESENTATIVE MILLER

1	AN ACT
2	To amend and reenact R.S. 35:191(A)(1)(d) and (e), 191.2(3), 191.4(B) through (H), and
3	192(A) and to enact R.S. 35:15, 15.1, 191(A)(1)(f) and (g), 191.1(C), and 191.4(I),
4	relative to notaries; to provide for qualifications of notaries; to provide for education
5	of notaries; to provide for fees; to provide for requirements for instructors; to provide
6	for bonding requirements for certain notaries; to provide for revocation or suspension
7	of notarial commissions and powers under certain circumstances; to provide terms,
8	conditions, procedures and requirements; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 35:191(A)(1)(d) and (e), 191.2(3), 191.4(B) through (H), and 192(A)
11	are hereby amended and reenacted and R.S. $35:15$, 15.1 , $191(A)(1)(f)$ and (g) , $191.1(C)$, and
12	191.4(I) are hereby enacted to read as follows:
13	§15. Revocation or suspension of notarial commission or authority to exercise
14	notarial powers
15	A. A notary public who is not an attorney may have his notarial commission
16	and powers revoked or suspended when it is demonstrated, by clear and convincing
17	evidence after a rule to show cause, that the notary has engaged in any of the
18	following:
19	(1) Dishonesty, fraud, deceit, or misrepresentation.
20	(2) A felony for which he has been convicted and no pardon has been issued.
21	(3) Gross misconduct or malfeasance in the exercise of his notarial powers.
22	(4) Certifying as true what he knew or should have known was false.
23	(5) Violation of any provision of this Title, or any other law governing the
24	office of notary public or the exercise of any notarial power or duty.
25	(6) Ceasing to possess any qualification required for holding his commission
26	as a notary public.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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- () Abandonment	of his	commission
- 1		<i>i</i> i i i i i i i i i i i i i i i i i i	OI IIIS	COMMINISSION.

B. The rule to show cause shall be instituted by the district attorney or the attorney general in the district court of either the parish in which the notary is commissioned or the parish where the conduct complained of occurred. Such rule to show cause shall be tried in summary proceeding.

C.(1) If after a hearing the court finds that the notary public was convicted of a felony for which no pardon has been issued, or engaged in an act of gross misconduct or malfeasance in the exercise of his notarial powers, or ceased to possess any qualification required for holding his commission, the court shall order the revocation of the notary's commission and shall prohibit the notary from the further exercise of notarial powers.

(2) If after a hearing the court finds that the notary public committed any other act set forth in Subsection A of this Section, the court may revoke the notary's commission and prohibit the notary from further exercise of notarial powers, or may suspend his commission and authority to exercise notarial powers for a specific period of time, to be determined by the court.

D. A court ordering the revocation of a notary's commission or the suspension of his notarial powers shall further cast the notary in judgment for attorney fees and court costs. The court may additionally order restitution to be paid by the notary public to such persons as the court determines were damaged by the conduct giving rise to the suspension of notarial powers or the revocation of commission.

E. When the rule to show cause is instituted against a person for his actions as an ex-officio notary public, or for his performance of notarial powers on behalf of an employer as authorized by law, then the person appointing the ex-officio notary or the person's employer, as applicable, shall also be named as a defendant and required to show cause why the notarial powers or commission should not be revoked. Any additional defendant named pursuant to this Subsection shall not be cast in judgment for attorney fees, costs, or restitution.

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F . The provisions of this Section shall not apply to an attorney licensed to

2	practice law in this state who exercises notarial powers.
3	§15.1. Administrative revocation of notarial commission or authority
4	A. The secretary of state shall suspend the commission of a notary public
5	who is not an attorney when the notary ceases to be a registered voter in the parish
6	of that notary's commission, or is convicted of a felony. The secretary of state shall
7	send a notice of suspension by certified mail, return receipt requested, to the notary
8	public stating the reasons for his suspension.
9	B. If the suspension arises from failure of the notary to be registered as a
10	voter in his parish of commission, the notice of suspension shall give the notary
11	public ten days from the date of receipt to register as a voter in the parish of his
12	commission. If the notary public fails to do so, the secretary of state shall notify the
13	district attorney of the parish in which the notary is commissioned for the purpose
14	of instituting a rule to show cause to revoke the commission pursuant to R.S. 35:15.
15	C. If the suspension arises from conviction of a felony, the period of
16	suspension shall continue until the conviction is final and all appellate review of the
17	original trial court proceedings has been exhausted. If the conviction is reversed
18	upon appeal, or if a pardon is issued for the conviction, the suspension shall
19	terminate and the commission shall be reinstated. When the conviction is final and
20	all appellate review of the original trial court proceedings is exhausted, and if no
21	pardon has been issued, the secretary of state shall notify the district attorney of the
22	parish in which the notary is commissioned for the purpose of instituting a rule to
23	show cause to revoke the commission pursuant to R.S. 35:15.
24	* * *
25	§191. Appointment; qualifications; examination
26	A.(1) Any person may be appointed a notary public in and for the parish in
27	which he resides and in and for any one other parish in which he maintains an office,
28	provided that he:
29	* * *

1	(d) Has received a high school diploma, has received a diploma for
2	completion of a home study program approved by the State Board of Elementary and
3	Secondary Education, or has been issued a high school equivalency diploma after
4	successfully completing the test of General Educational Development.
5	(d)(e) Is not under interdiction or incapable of serving as a notary because
6	of mental infirmity.
7	(f) Has not been convicted of a felony, or if convicted of a felony, has been
8	pardoned.
9	(e)(g) Meets the requirements established by law for each commission
10	sought.
11	* * *
12	§191.1. Secretary of state; uniform statewide standards, rules, and procedures for
13	notarial examinations
14	* * *
15	C. The secretary of state is authorized to develop, with the advice and
16	assistance of academically credentialed education professionals, a notary education
17	program for the formal education of candidates for a notary commission.
18	§191.2. Secretary of state; authority; duties
19	The secretary of state shall:
20	* * *
21	(3) Collect a fee for receiving and processing the annual report of each
22	notary, not to exceed ten twenty-five dollars per report.
23	* * *
24	§191.4. Secretary of state; procedures for registration and reporting of notary
25	instructors
26	* * *
27	B. Beginning February 28, 2015, each person who provides notary
28	examination preparatory education and instruction shall be required to be a
29	commissioned notary public with statewide notarial authority.

B.C. Each provider shall submit an annual registration statement to the secretary of state on or before January first of each year beginning January 1, 2010. The secretary of state shall provide the form to be used for registration with the secretary of state and all registrations shall be submitted on the form provided by the secretary of state.

C.D. Each provider, except an educational institution that operates under the oversight of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Board of Supervisors of Southern University and Agricultural and Mechanical College, or Board of Supervisors of Community and Technical Colleges, shall annually post a bond guaranteed by a commercial surety licensed to do business in this state with the secretary of state in the amount of twenty-five thousand dollars. The bond shall be to insure ensure the performance of the provider's obligation to deliver any educational services contracted for and shall remain in effect for a period of one year.

DE. Beginning in 2010, each provider shall submit a semi-annual semiannual report to the secretary of state on or before June thirtieth and December thirty-first listing the name and address of each person who received a course or courses of instruction or study from the provider for the training and instruction for the Louisiana notary public examination required for the office of notary public during the time period covered by the report. The secretary of state shall provide the form to be used for the semi-annual semiannual report and all reports shall be submitted on the form provided by the secretary of state or on a form which contains the same information as required by the report provided by the secretary of state.

- E.F.(1) The secretary of state may impose a penalty of not more than one thousand dollars per day against a provider who is not in compliance with the requirements of this Section.
- (2) If a penalty imposed under the provisions of this Section is not timely paid by a provider within thirty days of imposition of the penalty by the secretary of

HB NO. 929 **ENROLLED** 1 state, the attorney general shall institute proceedings against the provider to collect 2 such penalty. 3 F.G. Each provider shall be exempt from the licensing requirements of R.S. 4 17:3141.1 et seq., pertaining to such educational programs or instruction. 5 G.H. The secretary of state may establish and require an annual professional 6 development and education program for providers. 7 H.I. The secretary of state may promulgate rules and regulations, where 8 necessary, for implementation of the provisions of this Section, in accordance with 9 the Administrative Procedure Act. 10 §192. Execution and recordation of bond; filing of certificate of competency 11 A. The bond required of notaries by R.S. 35:191 shall be submitted to the 12 clerk of court and exofficio ex officio recorder of mortgages for the parish where the 13 notary will exercise the functions of his office, and, together with the certificate of 14 competency above provided for, shall be filed in the office of the secretary of state. 15 The bond shall be subscribed in favor of the governor, approved by the clerk, except 16 in Orleans Parish, and if secured by personal surety, recorded in the mortgage office 17 of the said parish. in a special book kept for that purpose. In Orleans Parish, the 18 bond shall be approved by the custodian of notarial records. 19 SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE

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APPROVED: __

GOVERNOR OF THE STATE OF LOUISIANA